

## REMARKS

Claims 1-9 and 11-21 remain pending in the application. The inventions set forth by claims 1-9 and 11-21 are alleged not to meet the requirements of 35 U.S.C. §103(a) as being unpatentable over Matsuda et al. (US 5,499,247, "Matsuda") in view of Bertin et al. (US 5,940,372, "Bertin"). The applicants respectfully traverse the allegation and respond as follows.

### **CLAIMS 1-9 and 11-21 MEET THE REQUIREMENTS OF SECTION 103(a)**

The issue of patentability raised by the Office action, and which the applicant must overcome, is whether the combination of Hanright in view of Keliikiki renders unpatentable claims 1-9 and 11-21 under 35 U.S.C. § 103(a). The applicants submit that claims 1-9 and 11-21 meet the requirements of 35 U.S.C. § 103(a), and therefore, claims 1-9 and 11-21 are allowable.

To establish a *prima facie* case of obviousness, and hence to find claims 1-20 unpatentable under 35 U.S.C. § 103(a), three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not be based upon applicant's disclosure. MPEP at § 2142.

In determining whether the claims meet the requirements of patentability including § 103(a), the applicants' disclosure is properly relied upon to determine the meaning of terms used in the claims. While doing so, the perspective of the person of ordinary skill in the art must be considered, particularly with respect to claimed elements that are well known. In such cases, it is not necessary for the applicants to describe those elements in detail, and the element should be considered to include all art-recognized hardware or combination of hardware and software techniques for implementing that element. Furthermore, it is appropriate to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (emphasis added). Limitations appearing in the specification but not recited in the claim are not

read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). See MPEP at § 2106.

With the requirements for patentability in mind, applicants claim vehicles and methods implemented within a vehicle comprising active networks. The applicants assert that an active network is known to the skilled artisan to include nodes capable of performing custom operations on the messages that pass through the nodes. An active network does not require a central server or computing resources. And, active network nodes are aware of the contents of messages transported and can participate in the processing and modification of the messages while they travel through the network. Reinold Declaration at ¶ 7 (attached with the applicants' October 1, 2003 response). Thus, it is clear that an active network is a defined physical structure that is unlike other communication structures such as communication busses and/or passive networks. Reinold Declaration at ¶ 6. Moreover, the applicants clearly distinguish particular kinds of passive networks, such as bus architectures, in the background portion of the specification. Beginning at page 2, line 3 of the specification, the applicants explain that, in accordance with existing design philosophy, various communication bus structures for interconnecting control elements, sensors, actuators and like structures within vehicle have been used, but that these architectures suffer a number limitations. The applicants further explain, beginning at page 2, line 19 of the specification, that network structures have been incorporated in connection with bus architectures. These passive network structures do not provide sufficient reliability for vehicle functional requirements such as power train, suspension, airbag systems, and the like, and usage has been limited to applications wherein information technologies are added to the vehicle. Thus, as the applicants have explained, existing architectures have not met the needs of efficient, reliable integration of in-vehicle electronic technologies and plug-and-play upgradeability.

Clear from the foregoing discussion, the applicants have claimed a specific physical structure, namely an active network known to have particular characteristics, within a vehicle. This active network is not a bus architecture and is not a passive network or a combination of a passive network and a bus architecture. Thus, for the claims to be unpatentable, i.e., not to meet the requirements of 35 U.S.C. § 103(a), the prior art must teach or suggest each and every limitation contained in the claims, and particularly, in this case, must teach or suggest a vehicle including an active network. Because the prior art fails to teach or suggest this structure or methods employing such structures, claims 1-9 and 11-21 do meet the requirements of 35 U.S.C. § 103(a) and are patentable.

It is asserted in the Office action that the applicants' claims fail to meet the requirements of patentability, particularly 35 U.S.C. § 103(a), over the combination of Matsuda in view of Bertin. Specifically, it is alleged that Matsuda teaches an active network (18). Careful analysis of Matsuda reveals that the alleged active network (18) is in actuality a multiplex bus. E.g., col. 3, lines 61-65. As noted above, applicants claim an active network, which is physically and functionally distinguishable from a multiplex bus. The applicants have, in fact, so distinguished bus architectures from the claimed invention within the specification itself. The applicants have further provided evidence that one of skill in the art would know the physical and functional requirements of the claimed active network.

Matsuda does not teach or suggest an active network. Bertin does not teach or suggest an active network. Therefore, the combination of Matsuda in view of Bertin does not teach or suggest an active network regardless of what other structures or functions these references may teach or suggest. Thus, the combination of Matsuda and Bertin does not teach or suggest each and every limitation contained in the claims, and the claims 1-9 and 11-21 meet the requirements for patentability and are allowable. Such action is requested.

It is no more necessary to amend the claims to recite the physical structures of the active network to establish patentability, a known thing, than it would be necessary to recite each and every physical structure of the claimed vehicle. Doing so is redundant. Moreover, this is not an instance where the applicants are arguing structures contained in the specification but not in the claims. The structures that define the active network are subsumed in the name of the thing itself, active network.

### **CONCLUSION**

In view of the above remarks, favorable re-consideration of this application and passage to issuance is respectfully requested. The examiner is invited to contact applicant's undersigned attorney with any questions regarding this response or the application as a whole. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855.

Respectfully submitted for,  
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